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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/862,881	08/09/2001	Craig M. Herzinger		8860

7590 12/24/2003

JAMES D. WELCH
10328 PINEHURST AVE.
OMAHA, NE 68124

EXAMINER

ESPLIN, DAVID B

ART UNIT PAPER NUMBER

2851

DATE MAILED: 12/24/2003

Please find below and/or attached an Office communication concerning this application or proceeding.



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APPLICATION NO./ CONTROL NO.	FILING DATE	FIRST NAMED INVENTOR / PATENT IN REEXAMINATION	ATTORNEY DOCKET NO.
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EXAMINER

ART UNIT	PAPER
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1203

DATE MAILED:

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Commissioner for Patents

See attached.

DETAILED ACTION

The reply filed on 12/1/03 is not fully responsive to the prior Office Action because of the following omission(s) or matter(s): Election is improper, see below. See 37 CFR 1.111.

Since the above-mentioned reply appears to be *bona fide*, applicant is given **ONE (1) MONTH or THIRTY (30) DAYS** from the mailing date of this notice, whichever is longer, within which to supply the omission or correction in order to avoid abandonment. **EXTENSIONS OF THIS TIME PERIOD MAY BE GRANTED UNDER 37 CFR 1.136(a).**

Applicant has elected claims that do not form a single species, as defined by Examiner's Election of Species Requirement. Applicant has traversed the election requirement on the grounds that the invention of the instant application is the manner in which data, from the data collection system is processed, and that there are no variations of this process shown in the drawings, which Examiner relied upon as the division of the various species. Examiner submits that this argument is not relevant to the Election of Species Requirement mailed 11/17/03. The claims include, as a whole and as elected, the structure of the different embodiments of the data collection system shown in the drawings. For example, from the elected claims, claim 1 contains the structure of the system shown in FIG. 4, claim 18 includes the structure of the system shown in FIG. 2, claim 39 includes the structure of the system shown in FIG. 5, and claim 40 includes the structure of the system shown in FIG. 6. If these permutations of the data collection system are well known within the art, and are not central to the invention of the subject application, Applicant is free to overcome this Election of Species Requirement by submitting evidence, or by **clearly admitting** on the record, that the species shown are obvious variants of each other,

Art Unit: 2851

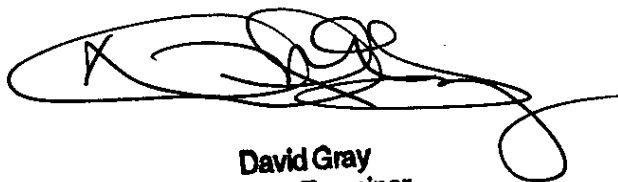
and are not patentably distinct. MPEP § 809.02(a). Alternatively, a proper election of a (single) species must be made. *Id.*

Any inquiry concerning this communication or earlier communications from the examiner should be directed to D. Ben Esplin whose telephone number is (703) 305-4022. The examiner can normally be reached on Mon.-Fri. (8am-4:30 pm).

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Russell E. Adams can be reached on (703) 308-2847. The fax phone number for the organization where this application or proceeding is assigned is (703) 872-9318.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 308-0956.

DBE
DBE



David Gray
Primary Examiner